

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

BILLIE ANN HAGAR)	
	Claimant)	
VS.)	
)	
METAL FAB, INC.)	
	Respondent)	
AND)	
)	
SELF-INSURED)	
	Insurance Carrier)	

Docket No. 180,160

ORDER

ON the 4th day of January, 1994, the application of the respondent for review by the Workers Compensation Appeals Board of an Order entered by Administrative Law Judge John D. Clark on November 9, 1993, came on for oral argument by telephone conference.

The matter was remanded to Administrative Law Judge John D. Clark by the Appeals Board's Order of January 11, 1994, for clarification. Additional comment was presented to the Appeals Board in the form of the January 24, 1994 letter from Administrative Law Judge John D. Clark.

APPEARANCES

The claimant appeared by and through his attorney, Brian D. Pistotnik, of Wichita, Kansas. The respondent and insurance carrier, appeared by and through their attorney, Ross A. Hollander, of Wichita, Kansas. There were no other appearances.

RECORD

(1) The documents filed of record with the Division of Workers Compensation in this

docketed matter including the transcript of preliminary hearing before Administrative Law Judge John D. Clark dated September 16, 1993, and exhibits attached thereto, and the January 24, 1994 letter from Administrative Law Judge John D. Clark.

ISSUES

- (1) Did the Administrative Law Judge exceed his jurisdiction in granting an Order for vocational evaluation and assessment while limiting the medical information to be used by the vendor in performing this assessment?
- (2) Does the Workers Compensation Appeals Board have jurisdiction to decide this matter?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the evidence presented and for the purposes of preliminary hearing, the Appeals Board finds:

The Workers Compensation Appeals Board on review of any act, finding, award, decision, ruling or modification of findings or awards of the Administrative Law Judge, shall have the authority to grant or refuse compensation, or to increase or to diminish any award of compensation or to remand any matter to the Administrative Law Judge for further proceedings. K.S.A. 44-551(b)(1).

- (1) K.S.A. 1992 Supp. 44-510g(e) grants the Director the power to refer an employee to a vocational rehabilitation vendor for the purpose of formulating a vocational rehabilitation plan.
- (2) The Appeals Board finds that it does not have jurisdiction to entertain this appeal of a preliminary hearing as the provisions of K.S.A. 44-534a restricting appeal of preliminary hearings to the question of whether the Administrative Law Judge exceeded his or her jurisdiction are applicable.

AWARD

WHEREFORE, it is the finding, decision and order of the Appeals Board that the Order of Administrative Law Judge John D. Clark, dated November 9, 1993, remains in full force and effect.

IT IS SO ORDERED.

Dated this _____ day of February, 1994.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

cc: Brian D. Pistotnik, 2831 East Central, Wichita, Kansas 67214
Ross A. Hollander, 500 North Market, Wichita, Kansas 67214
John D. Clark, Administrative Law Judge
George Gomez, Director

MEMORANDUM

TO: Don Ramsay
FROM: Gary Korte
DATE: February 10, 1994
RE: Hagar v. Metal Fab, Inc.,
Docket No. 180,160

Issues for consideration in this case:

Appeals Board's jurisdiction/Vocational rehabilitation/Preliminary hearing.